

48. The therapeutic compound of claim 47 wherein R_1 is $-(CH_2)_n-CHOH-CH_3$, X is $N(CH_3)$, Y is NH, and R_4 is $C_{(1-20)}$ alkylaminoalkyl.

49. The therapeutic compound of claim 47 wherein R_1 is $-(CH_2)_n-CHOH-CH_3$ which the hydroxy group is substituted with $-NR^aR^b$, wherein each of R^a and R^b may be the same or different and each is selected from the group consisting of hydrogen, optionally substituted alkyl, cycloalkyl, alkenyl, cycloalkenyl, alkynyl, aryl, heteroaryl and heterocyclic group, X is $N(CH_3)$, Y is NH, and R_4 is hydrogen.

REMARKS

Reexamination and reconsideration in light of the foregoing amendment and following remarks is respectfully requested. Claims 8-15, 47 -49 are pending in this application. Claims 1-7, 16, 17, and 19-46 have been canceled subject to Applicants' right to file divisional applications where appropriate. New claims 47-49 have been added. Claim 18 has been amended to encompass infringing subject matter. A marked up version of the changes to claim 18 appears in the APPENDIX hereto. Applicants note the Examiner's acknowledgment in the Office Action Summary of consideration of the references cited in the Information Disclosure Statement filed December 5, 2000.

Applicants' note the Examiner's determination that the restriction requirement is proper and is therefore final. Applicants elected the claims of Group I (claims 1-18 and 29-36) and were further required to make an election of species. The specie elected comprised formula (I) where

R₁ is a C₅₋₉ hydroxyalkyl, R₂ is methyl, X and Y are NH and Z is C(R₃) wherein R₃ is an alkylaminoalkyl. The specific specie elected is recited in claims 8 and 9. The Examiner made a search of the elected specie and found the specie recited in claims 8 and 9 to be "free of the prior art". Accordingly, it is believed that claims 8 and 9 contain allowable subject matter. The Examiner extended his search to compounds set forth in formula I in claim 1 wherein R₁ is a C₅₋₉ hydroxyalkyl, R₂ is methyl, X and Y are NH and Z is CH. The result of this search was a rejection of the claims over Novick, Jr. (U.S. Patent No. 5,039,666).

Claims 1-7 and 16 stand provisionally rejected under 35 USC §101 as claiming the same invention as that of claims 1-8 of copending Application No. 09/288,556. The rejected claims have been cancelled thereby rendering this rejection moot.

Claims 17-18 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 10 of copending Application No. 09/288,556. Claim 17 has been cancelled without prejudice or disclaimer, thereby rendering the rejection moot as to this claim. As for claim 18, the Examiner objected to the claim under 37 CFR §1.75(c) as being an improper multiple dependent claim. The claim has been amended to provide proper language for a multiply dependent claim. The claim is now multiply dependent on claims 8-15 and claims 47-49. It is believed that by this amendment, the rejection is obviated. Accordingly, it is respectfully requested that the rejection be reconsidered and withdrawn.

Claims 2 and 30 are objected to because of the use of the parenthetical expression "(Mercapto)". The rejected claims have been cancelled without prejudice or disclaimer, thereby

rendering the objection moot. Accordingly, it is respectfully requested that the objection be reconsidered and withdrawn.

Claims 1-7, 17, 18 and 29-36 stand rejected under the second paragraph of 35 USC §112. Claims 1-7, 17 and 29-36 have been cancelled without prejudice or disclaimer, thereby rendering the rejection as to these claims moot. The basis for this rejection is with respect to claims 1, 17 and 29. The Examiner did not discuss any specific objection to claim 18. Accordingly, it is believed that the cancellation of claims 1, 17 and 29 obviates this rejection.

Claims 1-17 and 29-36 stand rejected under 35 USC §103(a) as being unpatentable over Novick, Jr. (U.S. Patent No. 5,039,666). Claims 1-7, 16, 17 and 29-36 have been cancelled, thereby rendering the rejection as to these claims moot. Claims 8-15 are considered patentable over Novick.

The Examiner in making the rejection relies on formulae XII and XVI. Neither of the compounds represented by formulae XII and XVI disclose or suggest the compounds recited in claims 8, 9 and 14. The compounds of these claims require Z to be C(R₃) wherein R₃ is an alkylaminoalkyl group, which is not suggested or disclosed by Novick. Novick's compound at the Z position is CH. Accordingly, it is respectfully requested that the rejection of claims 8, 9 and 14 over Novick be reconsidered and withdrawn.

As for claims 10-13 and 15, Novick's group R₃ does not include a substitution of a dimethylamino, a methoxy, a nitrogen atom, or an acylamino for the hydroxy group in R₃. For this reason, it is not seen that Novick teaches or even suggests the compounds set forth in claims

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10-13 and 15. Novick's R_3 is limited to $(CH_2)_n - C(R_6)OH - CH_3$ group where R_6 is an alkyl group with 1 to 3 carbon atoms and n is a whole number from 2 to 5.

For the foregoing reasons, it is respectfully requested that the rejection of claims 10-13 and 15 as being obvious over Novick be reconsidered and withdrawn. New claims 47-49 have been added. For the same reasons given *supra*, these claims are not anticipated or obvious over Novick.

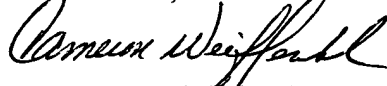
CONCLUSION

It is submitted that the claims 8-15 and 47-49 are believed to be patentable over the teachings of Novick, Jr. Accordingly, favorable reconsideration of the claims is requested in light of the preceding amendments and remarks, and allowance of the claims is courteously solicited.

A petition for a two-month extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIM 18

18. A pharmaceutical composition comprising the compound [of either claim 1, 8 or 9-17] in any one of claims 8-15 and 47-49 in which the compound is an admixture with a pharmaceutically acceptable carrier, adjuvant or vehicle.